

**Notice of Allowability**

Application No.

09/596,876

Applicant(s)

MENARD ET AL.

Examiner

Anatoly Vortman

Art Unit

2835

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Decision on Petition filed on 04/05/04 and Amendment filed on 02/17/04.
2. ☒ The allowed claim(s) is/are 1-3, 5-10, 12-15 and 19-29 (renumbered 1-24, respectively).
3. ☒ The drawings filed on 19 June 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____  |



### REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance:

The instant application has been revived according to the Decision on Petition for Revival (granted) filed on 04/05/04. The Applicant's amendment filed on 02/15/04 concurrently with the aforementioned Petition for Revival has been entered.

The allowability resides in the overall structure of the device as recited in pending independent claims 1, 15, and 22, and at least in part, because of the following:

Regarding independent claim 1, the claim has been amended to include limitations of previously objected claim 11 and of intervening claim 4. Claim 1 now recites: "said means for separately applying heat comprises a first electrical circuit that includes said first portion of said SMA element and a second electrical circuit that includes said second portion of said SMA element, said first and second circuits sharing a common ground fixedly attached to a mounting surface upon which said substrate is mounted".

Regarding independent claim 22, the claim recites: "means for separately and independently heating said first and said second sections of said SMA element".

The aforementioned "means-plus-function" limitations (i.e. means for heating) had invoked consideration of the claims under 35 USC 112, paragraph six. The detailed description of the "heating means" has been presented on p. 8 of the specification and shown, for example, on Fig. 5.

Regarding independent claim 15, the claim has been amended to include limitations of previously objected claim 17 and of intervening claim 16. Claim 15 now recites: "said common

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node includes an electrical ground fixedly attached to a mounting surface upon which said substrate is mounted and a spring component extending from said electrical ground to said SMA element to maintain electrical connectivity between said SMA element and said electrical ground, while permitting movement of said SMA element between said first and said second conformations”.

The aforementioned limitations in combination with all remaining limitations of the respective independent claims, are believed to render said independent claims 1, 15, and 22 and all claims dependent therefrom patentable over the art of record.

None of the references cited during prosecution of the instant application either taken alone or in combination is believed to render the present invention unpatentable as claimed.

2. Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anatoly Vortman whose telephone number is 571-272-2047. The examiner can normally be reached on Monday-Friday, between 10:00 am and 6:30 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Ms. Lynn Feild can be reached on 571-272-2092. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anatoly Vortman  
Primary Examiner  
Art Unit 2835

AV

A handwritten signature in dark ink, appearing to read 'A. Vortman', followed by a long horizontal line extending to the right.